



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

Complainant's  
Exhibit No. 140

MAY 28 2003

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Kenneth A. Cook, President  
Environmental Working Group  
1436 U Street NW, Suite 100  
Washington, DC 20009

Dear Mr. Cook:

Thank you for your letter of April 11, 2003, to Administrator Whitman regarding the Environmental Working Group's (EWG) concerns about PFOA and possible violations of reporting under Section 8(e) of the Toxic Substances Control Act (TSCA) by DuPont. The TSCA section 8(e) program is administered by the Office of Pollution and Prevention and Toxics (OPPT). Accordingly, Administrator Whitman has asked me to respond on her behalf.

The Agency is taking the allegations of reporting violations described in your letter seriously and is in the process of examining the more than two decades of reporting activity for this chemical and related materials. As an initial step in this process, we have requested from the DuPont Company an explanation of why certain data were not submitted to the Agency under TSCA Section 8(e), enclosed. This is part of our normal fact finding process in complex cases like this. An important consideration in determining reporting obligations under TSCA Section 8(e), as in the present case, is the need to establish the time course of when certain information was available to a party in relation to other data. Therefore, Dupont's response to our letter should help us understand the reasoning for and decisions made pertaining to this case. We will keep you informed of our progress in investigating EWG's allegations that Dupont failed to report certain information under TSCA Section 8(e).

Sincerely,

Charles M. Auer, Director  
Office of Pollution Prevention and Toxics

Enclosure

cc: Oscar Hernandez  
Richard Hefter  
Barbara Leczynski  
Ward Penberthy



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PREVENTION, PESTICIDES AND  
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May 22, 2003

DuPont Haskell Laboratory  
Attn: A. Michael Kaplan, Ph.D.  
Director - Regulatory Affairs and Occupational Health  
Elkton Road, P.O. Box 50  
Newark, DE 19714-0050

SUBJECT: TSCA 8(e) Reporting Requirements for PFOA Information

Dear Dr. Kaplan:

In a recent report by the Environmental Working Group (EWG) on risks associated with perfluorooctanoic acid (PFOA), posted on the internet (<http://www.ewg.org/reports/pfcworld/>), and in a letter to Administrator Whitman alleging reporting violations of TSCA Section 8(e) (enclosed), there is a reference to a "Personal and Confidential" DuPont document containing information on PFOA blood levels in female workers at a DuPont plant in West Virginia in 1981 (enclosed). This one-page DuPont document also notes that PFOA was found in the umbilical cord blood from one baby and in the blood of another baby, both of whom were born to women working in the West Virginia plant. According to this same DuPont document, among the seven individuals listed in the table one gave birth to a child with an unconfirmed eye and tear duct defect and a second individual gave birth to a child with a nostril and eye defect. The EWG report further states that in 1981 DuPont reassigned 50 female workers at the plant to reduce PFOA exposure. In addition, the EWG report also describes DuPont studies of PFOA contamination of drinking water supplies in areas surrounding the Parkersburg, West Virginia plant.

As you know, TSCA section 8(e) states, "Any person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment shall immediately inform the [EPA] Administrator of such information unless such person has actual knowledge that the Administrator has been adequately informed of such information."

Assuming that the information described above is accurate and was in DuPont's possession since 1981, please provide the contemporaneous logic for DuPont's decisions not to submit to EPA under TSCA section 8(e) the reports of (1) PFOA blood monitoring data on female workers and

their offspring and (2) human developmental effects (a) in 1981 and (b) subsequently as additional data on PFOA's hazards and exposures (including the drinking water data related to its West Virginia plant, the 3M blood monitoring data, the 2-generation reproductive toxicity study, etc.) were accumulated. We are concerned that the blood and umbilical cord monitoring data, together with the known or suspected toxicity of PFOA and other exposure data on PFOA, may present a TSCA 8(e) reporting obligation. In addition, please provide the drinking water data to the Agency and provide an explanation as to why it was not submitted when Dupont obtained the data. We request a response to this letter within 30 days.

Please address your response to:

Document Processing Center (7407M)  
EPA East - Room 6428 Attn: Section 8(e)  
U.S. Environmental Protection Agency  
Office of Pollution Prevention and Toxics  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460-0001

Deliveries:  
1201 Constitution Avenue, NW  
Washington, DC 20004-3302

Questions regarding this request should be directed to Mr. Terry O'Bryan of my staff at (202) 564-7656 or email [OBRYAN.TERRY@EPA.GOV](mailto:OBRYAN.TERRY@EPA.GOV)

Sincerely,



Richard H. Hefter, Chief  
High Production Volume Chemicals Branch

Enclosures

cc: Charles Auer  
Oscar Hernandez  
Terry O'Bryan